

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

EDGAR ZERMENO,

Plaintiff,

v.

STRATOSPHERE CORPORATION,

Defendant.

Case No. 2:07-CV-00581-KJD-LRL

ORDER

Currently before the Court is Defendant's Motion for Attorney Fees (#30). Plaintiff filed a Response in Opposition (#31), to which Defendant filed a Reply (#34). Specifically, Defendant seeks attorney fees pursuant to the Court's Order (#29) of November 2, 2009, in which it granted Defendant's Special Motion to Dismiss pursuant to Nevada's anti-SLAPP statute, N.R.S. § 41.650.

In its Order of November 2, 2009, the Court held that Plaintiff's defamation/slander per se claim sought to impose liability upon Defendant for its "good faith communication" in furtherance of its right to petition, in violation of Nevada's anti-SLAPP statute. In conjunction with the anti-SLAPP statute, N.R.S. § 41.670 provides that a court granting a special motion to dismiss pursuant to section 41.650 "shall award reasonable costs and attorney's fees to the person against whom the action is brought."

1 Plaintiff's Response in Opposition points out that case law interpreting N.R.S. § 41.650 is
2 "sparse" and argues that the statute should not be used to support an award of attorney fees here. The
3 Court however, does not agree. Although its underlying decision for dismissal of Plaintiff's
4 defamation/slander per se claim was also supported by a finding of statutory privilege under N.R.S. §
5 463.3407, the Court specifically found that Defendant's communication to the Control Board also fit
6 within the statutory definition of a petition under N.R.S. § 41.650. Accordingly, Defendant shall be
7 awarded reasonable attorney's fees in regard to its anti-SLAPP pleadings.

8 Local Rule 54-16 sets forth the information the Court must consider when determining the
9 reasonableness of attorney's fees and costs. Defendant has provided the Court with the applicable
10 information under the rule, including an itemization of all costs being charged as a part of the fee
11 award and an affidavit demonstrating that Defendant incurred attorney's fees and costs in the amount
12 of \$11,247.43 relating to the subject Motion. As stated above, Plaintiff's two-page Opposition
13 requests that the Court not apply the anti-SLAPP fee award provision, yet makes no opposition to the
14 itemization or fee award amount.

15 Accordingly, **IT IS HEREBY ORDERED** that Defendant's Motion for Attorney Fees (#30)
16 is **GRANTED**.

17 DATED this 14th day of September 2010.

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21 Kent J. Dawson
22 United States District Judge
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